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May 25, 1955

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SEP 22 1998

CONCORD, N.H.

Honorable Lane Dwinell
Governor of New Hampshire
Concord, New Hampshire

Dear Governor:

On May 18 you submitted the enclosure to me with a request for a review and advice to you as to whether salary increases for certain state officials are permissive or mandatory, vis-a-vis the "recommendation of the appointing authority."

Yearly service increases are mandatory upon recommendation of the appointing authority under Laws 1953, chapter 265, section 3. Thus, for example, with respect to an Assistant Attorney General, receipt by the comptroller of notification of recommendation by the Attorney General that the Assistant be granted his yearly service increase invokes the mandatory provisions of section 3 which renders him entitled to that yearly annual increase effective July 1, next.

However, the officials listed in the enclosure are themselves appointed by the Governor or the Governor and Council. In respect to these officials, Laws 1953, chapter 265 requires notice to the comptroller of recommendation of the appointing authority before any of the officials listed on the enclosure are entitled to their "yearly service increase." Nothing in Laws 1953, chapter 265 makes it mandatory that the Governor or the Governor and Council as appointing authority shall so recommend and in fact it is entirely up to the appointing authority as to whether or not to make this recommendation in each individual case. Unless a recommendation is made to the comptroller, no yearly service increase will be granted to the appointed official involved.

Respectfully,

Louis C. Wyman
Attorney General

W/d
Encl.